

Message Text

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ACTION EB-08

INFO OCT-01 EUR-12 IO-13 ISO-00 CIAE-00 COME-00 DOTE-00

FMC-01 INR-07 NSAE-00 SAL-01 CG-00 DLOS-06 OES-06

PM-04 H-01 L-03 NSC-05 PA-01 PRS-01 SP-02 SS-15

USIA-06 /093 W

-----091531Z 086995 /50

R 091249Z MAR 77

FM AMEMBASSY LISBON

TO SECSTATE WASHDC 0471

INFO AMEMBASSY BONN

USMISSION EC BRUSSELS

AMEMBASSY COPENHAGEN

USMISSION GENEVA

AMEMBASSY LONDON

AMEMBASSY MADRID

AMEMBASSY MOSCOW

AMEMBASSY OSLO

AMCONSUL OPORTO

AMEMBASSY PARIS

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AMCONSUL PONTA DELGADA

AMEMBASSY STOCKHOLM

USMISSION NATO

/DIA WASHDC

CINCLANT NORFOLK VA

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E.O. 11652: N/A

TAGS: EWWT, PFOR, PO, US

SUBJ: GOP DECREE PROTECTING PORTUGUESE MERCHANT FLEET

REF: (A) LISBON 1554 (DTG 271442Z FEB 77)(NOTAL),

(B) 76 LISBON 3328 (DTG 191155Z MAY 76), (C) 76 LISBON

3419 (DTG 211154Z MAY 76), (D) 76 LISBON 6671 (DTG 291107Z

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SEP 76)(NOTAL), (E) 76 STATE 301181 (DTG 102354Z

DEC 76)(NOTAL)

SUMMARY: GOP DECREE OF FEB 28 PROVIDES THAT CARGOES SHIPPED
BY PUBLIC SECTOR ENTITIES MUST BE CARRIED ON PORTUGUESE FLAG
SHIPS OR ON FOREIGN SHIPS CHARTERED BY PORTUGUESE SHIPOWNER,
EXCEPT IN CASE OF RECIPROCAL OR INTERNATIONAL AGREEMENTS.

LOCAL SHIPPING AGENTS BELIEVE LAW WILL GIVE VIRTUAL MONOPOLY TO PORTUGUESE-SOVIET SHIPPING AGENCY AMINTER. SECRETARY OF STATE FOR MERCHANT MARINE DEFENDED NEW DECREE LAW AS LESS RESTRICTIVE THAN THOSE OF MANY OTHER COUNTRIES, AND AS NECESSARY "TRANSITIONAL" MEASURE. DIFFICULTY IN RESTRUCTURING PORTUGUESE MERCHANT FLEET WILL, HOWEVER, PROBABLY AUGMENT PRESSURES TO MAKE LAW PERMANENT. SECRETARY SAID THAT PORTUGUESE CONCERN OVER LARGE SOVIET SHARE OF CARGOES WOULD LEAD TO GOP WITHDRAWAL FROM AMINTER, BUT HE ENVISAGES RESTRICTED ROLE FOR SHIPPING AGENTS. SECRETARY'S VIEWS COULD PREJUDICE POSITION OF SHIPPING AGENTS AND, THROUGH THEM, FOREIGN SHIPPING LINES. END SUMMARY.

1. MEASURE TO PROTECT PORTUGUESE MERCHANT FLEET (SEE PARA 3D., REF A) WAS PROMULGATED AS DECREE-LAW 75-U/77 OF FEB 28; COPY OF LAW BEING POUCHED TO EB/TCA/MA. LAW PROVIDES THAT IMPORTS OR EXPORTS MADE BY ANY "ORGAN OF PUBLIC ADMINISTRATION" OR PUBLIC COMPANY "EMPRESA PUBLICA" MUST BE ON PORTUGUESE FLAG SHIPS OR ON FOREIGN SHIPS CHARTERED BY PORTUGUESE SHIPOWNER. ALSO INCLUDED ARE IMPORTS MADE BY OTHER ENTITIES WHICH ARE DESTINED, THROUGH PRIOR CONTRACT, FOR PUBLIC ENTITIES. ESCAPE CLAUSES:

- UP TO 50 PERCENT OF SUCH CARGO CAN BE CARRIED ON SHIPS OF THE IMPORTING OR EXPORTING COUNTRY, IF THE LAWS OF THAT COUNTRY CONCEDE EQUAL TREATMENT TO PORTUGUESE SHIPS;
- IF NO PORTUGUESE FLAG SHIPS, OR FOREIGN SHIP CHARTERED BY PORTUGUESE SHIPOWNER, ARE AVAILABLE, GOVERNMENT CAN LIMITED OFFICIAL USE

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DECLARE CARGO FREE FROM PROVISIONS OF LAWS; AND

- LAW WILL BE APPLIED UNLESS IT CONTRAVENES RATIFIED INTERNATIONAL ACCORDS AND CONVENTIONS.

2. LOCAL SHIPPING AGENTS ARE INCREASINGLY CONCERNED ABOUT LAW. THEY ESPECIALLY HAVE CITED PROVISION FOR "FOREIGN SHIPS CHARTERED BY PORTUGUESE SHIPOWNERS." THEY BELIEVE THIS WILL GIVE VIRTUAL MONOPOLY TO PORTUGUESE-SOVIET SHIPPING AGENCY AMINTER (SEE REF B AND C). SINCE NATIONALIZED SHIPPING COMPANIES CNN AND CTM HAVE MAJORITY CONTROL OF AMINTER, AGENTS BELIEVE AMINTER WILL BE CONSIDERED A "PORTUGUESE SHIPOWNER." SWEDISH EMBASSY OFFICER TOLD EMBOFF THAT HIS GOVERNMENT VERY CONCERNED ABOUT LAW, WHICH, HE STATED, APPARENTLY VIOLATES OECD CONVENTIONS.

3. EMBOFF ASKED ABOUT NEW LAW DURING MARCH 4 MEETING WITH SECRETARY OF STATE FOR MERCHANT MARINE ANTONIO CRISOSTOMO TEIXEIRA. LATTER OBVIOUSLY HAD BEEN EXPECTING REPRESENTATION FROM US (AND OTHER EMBASSIES). TEIXEIRA CLAIMED THAT NEW

DECREE WAS NO MORE STRINGENT THAN SIMILAR LEGISLATION OF OTHER COUNTRIES. IN CONTRAST TO A PREVIOUS OCCASION (SEE REF D) HE DID NOT SPECIFICALLY MENTION U.S. LEGISLATION. HOWEVER, HE CITED FRENCH LAW OF 1935 AND MORE RECENT BRAZILIAN LEGISLATION, AND CLAIMED THAT PORTUGUESE LAW CONTAINS MORE "SAIDAS" ("ESCAPE CLAUSES") THAN FRENCH AND BRAZILIAN LAWS.

4. MERCHANT MARINE SECRETARY NOTED GOP'S GROWING CONCERN WITH PORTUGUESE MERCHANT FLEET'S SHRINKING SHARE OF TRADE. NEW DECREE WAS DESIGNED ONLY AS A "TRANSITIONAL MEASURE", TO COVER A 3 TO 4 YEAR PERIOD DURING WHICH MERCHANT FLEET WOULD BE REORGANIZED AND MODERNIZED.

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5. TEIXEIRA RAISED PROBLEM OF GROWING CARGO SHARE BEING TAKEN BY SOVIET SHIPS, WHICH DON'T HAVE TO WORRY ABOUT REVENUE OR PROFITABILITY. TEIXEIRA SPECIFICALLY NOTED THAT HE PERSONALLY HAD ORDERED A SOVIET SHIP TO VACATE A LISBON BERTH BECAUSE IT HAD BEEN BLOCKING SPACE FOR AN UNDULY LONG PERIOD. WHEN EMBOFF NOTED SHIPPING AGENTS' CONCERN ABOUT ROLE OF AMINTER, TEIXEIRA SAID GOP ALSO LIMITED OFFICIAL USE

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WAS PREOCCUPIED. ALTHOUGH GOP IS WORRIED ABOUT SOVIET EMBASSY'S REACTION, IT PLANS TO DISENGAGE FROM AMINTER. AS FIRST STEP, IT WILL WITHDRAW CNN'S ADMINISTRATOR FROM AMINTER.

6. SECRETARY TEIXEIRA INDICATED THAT HE BELIEVES THE ROLE OF PORTUGUESE SHIPPING AGENTS SHOULD BE CONSIDERABLY RESTRICTED. HE ALMOST ECHOED STATEMENT MADE A YEAR EARLIER BY HEAD OF AMINTER (SEE REF C) THAT SHIPPING AGENTS HAVE NOT BEEN INTERESTED IN PROTECTING INTERESTS OF PORTUGUESE MERCHANT FLEET. TEIXEIRA SAID THAT ROLE OF SHIPPING AGENTS SHOULD BE IN GATHERING CARGO AND PROVIDING SHIP SERVICES, WHILE SHIPPING LINES SHOULD TAKE CARE OF CARGO TRANSPORT (PRESUMABLY INCLUDING CHARTERS).

7. EMBOFF BRIEFED TEIXEIRA ON U.S. POSITION TOWARD POOLING ARRANGEMENTS (REF E). TEIXEIRA APPEARED TO BE SOMEWHAT COOL TOWARD POOL IDEA, BUT SAID HE HAD ALREADY PLANNED TO DISCUSS SUBJECT WITH CTM.

8. COMMENT: A. AS FINALLY PROMULGATED, DECREE APPEARS TO BE LESS COMPREHENSIVE THAN DRAFT VERSIONS WHICH APPEARED DURING PAST YEAR. HOWEVER, EXACT SCOPE REMAINS TO BE DEFINED. IN NARROWEST SENSE, "EMPRESA PUBLICA" REFERS TO ONLY A LIMITED NUMBER OF COMPANIES. HOWEVER, GOP WILL LIKELY TRY TO APPLY THE SPIRIT, IF NOT THE LETTER, OF THE LAW TO ALL COMPANIES UNDER ITS CONTROL, INCLUDING INTERVENED FIRMS.

B. WE DO NOT PLACE MUCH FAITH IN THE "TRANSITIONAL" NATURE OF THE NEW LAW. MODERNIZATION OF THE FLEET WOULD, BY ITSELF, BE BOTH EXPENSIVE AND INSUFFICIENT. AS TEIXEIRA HAS HIMSELF RECOGNIZED, EXCESSIVELY HIGH WAGES AND BENEFITS OF PORTUGUESE MERCHANT SAILORS (REPUTEDLY SECOND ONLY TO U.S. MERCHANT MARINE) WOULD HAVE TO BE PARED. GOP HAS NOT MADE ANY CONCRETE MOVES TOWARD CORRECTING THESE ILLS. IN ANY CASE, PRESSURE WILL EXIST TO LEAVE LAW ON LIMITED OFFICIAL USE

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BOOKS.

C. WE ARE NOT SURE HOW MUCH OF SECRETARY TEIXEIRA'S CONCERN ABOUT THE SOVIET MERCHANT MARINE WAS FOR OUR BENEFIT. UNTIL NOW THE GOP HAS NOT NOTABLY DISPLAYED ANY RELUCTANCE TO SEE AN EXPANDED SOVIET ROLE IN SHIPPING. A WITHDRAWAL FROM AMINTER WOULD BE A GOOD INDICATION.

D. PORTUGUESE SHIPPING AGENTS APPEAR TO HAVE CAUSE FOR WORRY. TEIXEIRA'S CONCEPT, IF CARRIED OUT, WOULD LEAVE THEM A VERY LIMITED ROLE. POTENTIALLY, IT ALSO WOULD PREJUDICE THE POSITION OF FOREIGN SHIPPING LINES (INCLUDING U.S.).

9. ACTION REQUESTED: EMBASSY WOULD APPRECIATE DEPT. OR OECD PARIS OPINION AS TO WHETHER NEW DECREE APPEARS TO VIOLATE PORTUGAL'S INTERNATIONAL AGREEMENTS OR UNDERSTANDINGS.
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